

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FOURTH LEGISLATURE
SECOND SESSION

Juneau, Alaska

Thursday

January 19, 2006

Eleventh Day

Pursuant to adjournment the Senate was called to order by President Stevens at 11:28 a.m.

The roll showed eighteen members present. Senator Hoffman was excused from a call of the Senate. Senator Seekins was absent.

Senator Gary Stevens moved and asked unanimous consent that Senator Seekins be excused from a call of the Senate today. Without objection, Senator Seekins was excused.

The prayer was offered by the Chaplain, Major Joe Huttenlocker of The Salvation Army. Senator Olson moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Let us pray. For all that has been done thus far, we give thanks Oh God. I ask You once again to grant these leaders of the Alaska State Senate the freedom of mind that will enable them to manage the common affairs of this state. May they be wise not to misemploy or neglect the improvements that can be made by what they decide. We need them to be industrious leaders without covetousness; diligent without anxiety; exact with each action taken as if success were dependent upon it, and yet so resigned as to leave all events to thee and still attributing to thee the praise of every good work they accomplish. Grant them now the wisdom to make stepping-stones out of stumbling blocks. For this we ask in Your name Oh Lord, Our God. May it be so. Amen!

Senator Guess led the Senate in the Pledge of Allegiance.

Certification

Senator Gary Stevens moved and asked unanimous consent that the journal for the tenth legislative day be approved as certified by the Secretary. Without objection, it was so ordered.

Standing Committee Reports

SB 55

The Finance Committee considered SENATE BILL NO. 55 "An Act instructing the commissioner of natural resources to issue a patent for the remaining interest in certain state land to the owner of the agricultural rights to that land" and recommended it be replaced with

CS FOR SENATE BILL NO. 55(FIN)

Signing do pass: Senators Wilken, Green, Cochairs; Senators Olson, Dyson, Stedman.

The following fiscal information was published today:

Fiscal Note No. 2, indeterminate, Department of Natural Resources

The bill was referred to the Rules Committee.

Special Committee Reports

Report dated January 18 was read, stating the Committee on Committees has met and submits to the Senate for its consideration the following changes to the Committee on Committees Report dated January 10, 2005.

Community And Regional Affairs

Senator Stedman replaces Senator Gary Stevens as Chair

Senator Gary Stevens is Vice Chair

The report was signed by Senator Ben Stevens, Chair; Senators Cowdery, Gary Stevens, Ellis.

Senator Gary Stevens moved and asked unanimous consent that the Committee on Committees Report be adopted. Without objection, the report was adopted.

Introduction and Reference of Senate Bills

SB 244

SENATE BILL NO. 244 BY SENATOR WAGONER, entitled:

"An Act prohibiting unfair discrimination against an acupuncturist; amending the definition of 'provider' as it relates to authorized collective negotiations by physicians affecting the rights of providers under health benefit plans; and providing for an effective date."

was read the first time and referred to the Labor and Commerce and Health, Education and Social Services Committees.

Consideration of the Calendar

Third Reading of House Bills

HB 149

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective date" was read the third time.

Senator Green moved that the bill be returned to second reading for the purpose of a specific amendment, that being Amendment No. 1. Without objection, the bill was returned to second reading.

Senators Green, Wagoner offered Amendment No. 1:

Page 1, line 6, following "**Alaska Rules of Criminal Procedure**":
Insert ", and **Rule 65, Alaska Rules of Civil Procedure**"

Page 16, line 9 following "salts of isomers":
Insert "as the sole active ingredient"

Page 16, line 13, following "public.":

Insert "The commissioner of public safety may issue an emergency regulation with an immediate effective date that requires other products or substances containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to be subject to the requirements of this subsection if the commissioner determines that the product or substance has been diverted to the illegal manufacture of methamphetamine products in this state, and presents a risk of further diversion to the illegal manufacture of methamphetamine products if not subject to the requirements of this subsection. The regulation is not subject to challenge under AS 44.62.300(2). A court reviewing the regulation under AS 44.62.300 may not grant a temporary restraining order or preliminary injunction."

Page 18, following line 9:

Insert a new bill section to read:

"* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. The prohibition on temporary restraining orders and preliminary injunctions in AS 17.30.090(b), added by sec. 18 of this Act, has the effect of amending Rule 65, Alaska Rules of Civil Procedure."

Renumber the following bill sections accordingly.

Page 18, line 17:

Delete ", 21, and 22"

Insert "and 21 - 23"

Senator Green moved for the adoption of Amendment No. 1. Senator Ellis objected.

Senator Wagoner moved and asked unanimous consent for the adoption of the following amendment to Amendment No. 1:

Line 2, following "effective date"

Insert "naming a product or substance by brand"

Line 5, following "substance"

Insert "named in the regulation"

Line 5, following "has been"

Delete "diverted to"

Insert "found in connection with"

Senator Wagoner moved and asked unanimous consent to withdraw the amendment to Amendment No. 1. Without objection, the amendment to Amendment No. 1 was withdrawn.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN)

Second Reading

Amendment No. 1

YEAS: 11 NAYS: 7 EXCUSED: 2 ABSENT: 0

Yeas: Bunde, Cowdery, Dyson, Green, Huggins, Stedman, Stevens B, Stevens G, Therriault, Wagoner, Wilken

Nays: Davis, Ellis, Elton, French, Guess, Kookesh, Olson

Excused: Hoffman, Seekins

and so, Amendment No. 1 was adopted.

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure, and Rule 65, Alaska Rules of Civil Procedure; and providing for an effective date" was automatically in third reading.

Senator Ellis moved to divide the question as follows:

The marijuana sections are Sections 1, 2, 7, 8, 9, 10

The meth sections are Sections 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22

(The mixed section is Section 23 that refers to the applicability of the new statute and states that the bill applies to offenses committed on or after the effective date of the Act. If we divide the bill and one portion passes and one portion fails then this section would need to be changed.)

President Stevens ruled the question is divisible.

The question being: "Shall the question be divided?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S
Third Reading - Final Passage
Divide the question?

YEAS: 8 NAYS: 10 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Dyson, Ellis, Elton, French, Guess, Kookesh, Olson

Nays: Bunde, Cowdery, Green, Huggins, Stedman, Stevens B, Stevens G, Therriault, Wagoner, Wilken

Excused: Hoffman, Seekins

and so, the question was not divided.

Senator French moved that the bill be returned to second reading for the purpose of a specific amendment, that being Amendment No. 2. Without objection, the bill was returned to second reading.

Senator French offered Amendment No. 2:

Page 1, line 11:

Delete "SECS. 7 - 10"

Insert "SECS. 6 - 9"

Delete "secs. 7 - 10"

Insert "secs. 6 - 9"

Page 1, lines 12 - 13:

Delete "and to provide legislative findings concerning this Act regarding marijuana and its effects in this state"

Page 2, line 1, through page 4, line 9:

Delete all material.

Page 18, line 6:

Delete "Section 13"

Insert "Section 12"

Page 18, line 12:

Delete "sec. 16"

Insert "sec. 15"

Page 18, line 17:

Delete "Sections 1 - 18, 21, and 22"

Insert "Sections 1 - 17, 20, and 21"

Senator French moved for the adoption of Amendment No. 2. Senator Green objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S
Second Reading
Amendment No. 2

YEAS: 7 NAYS: 11 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Ellis, Elton, French, Guess, Kookesh, Olson

Nays: Bunde, Cowdery, Dyson, Green, Huggins, Stedman, Stevens B,
Stevens G, Therriault, Wagoner, Wilken

Excused: Hoffman, Seekins

and so, Amendment No. 2 failed.

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S was
automatically in third reading.

Senator Ellis moved that the bill be returned to second reading for the
purpose of a specific amendment, that being Amendment No. 3.
Without objection, the bill was returned to second reading.

Senator Ellis offered Amendment No. 3:

Page 10, lines 3 - 10:

Delete all material.

Insert "(1) uses or displays **in public in the presence of one or more individuals** any amount of a schedule VIA controlled substance [OR POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF LESS THAN ONE-HALF POUND CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE]; or

(2) refuses entry into a premise for an inspection authorized under AS 17.30."

Page 15, lines 2 - 28:

Delete all material.

Renumber the following bill sections accordingly.

Page 18, lines 10 - 14:

Delete all material.

Page 18, line 17:

Delete "Sections 1 - 18, 21, and 22"

Insert "Sections 1 - 17 and 20"

Senator Ellis moved for the adoption of Amendment No. 3. Senator Gary Stevens objected.

The question being: "Shall Amendment No. 3 be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S

Second Reading

Amendment No. 3

YEAS: 7 NAYS: 11 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Ellis, Elton, French, Guess, Kookesh, Olson

Nays: Bunde, Cowdery, Dyson, Green, Huggins, Stedman, Stevens B, Stevens G, Therriault, Wagoner, Wilken

Excused: Hoffman, Seekins

and so, Amendment No. 3 failed.

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S was automatically in third reading.

Senators Wilken, Dyson moved and asked unanimous consent to be shown as cross sponsors on the bill. Without objection, it was so ordered.

The question being: "Shall SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure, and Rule 65, Alaska Rules of Civil Procedure; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S
Third Reading - Final Passage
Effective Date

YEAS: 17 NAYS: 1 EXCUSED: 2 ABSENT: 0

Yeas: Bunde, Cowdery, Davis, Dyson, Elton, French, Green, Guess, Huggins, Kookesh, Olson, Stedman, Stevens B, Stevens G, Therriault, Wagoner, Wilken

Nays: Ellis

Excused: Hoffman, Seekins

and so, SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S passed the Senate.

Senator Gary Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the Court Rule changes. Senator Ellis objected.

The question being: "Shall the Court Rule changes be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S
Adopt Court Rule changes?

YEAS: 11 NAYS: 7 EXCUSED: 2 ABSENT: 0

Yeas: Bunde, Cowdery, Dyson, Green, Huggins, Stedman, Stevens B, Stevens G, Therriault, Wagoner, Wilken

Nays: Davis, Ellis, Elton, French, Guess, Kookesh, Olson

Excused: Hoffman, Seekins

and so, the Court Rule changes failed to be adopted.

Senator Gary Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clause. Without objection, it was so ordered.

Senator Wagoner gave notice of reconsideration on SENATE CS FOR CS FOR HB 149(FIN) am S(ct rule fld S) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date."

Citations

Honoring – Sally Donaldson, Alaska Counselor of the Year
Senator(s) Elton, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, French, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken
Representative(s) Kerttula, Weyhrauch

Honoring – Robert N. Jacobsen, Junior Achievement 2006 Laureate
Senator(s) Elton, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken
Representative(s) Kerttula, Weyhrauch

Honoring – Southeast Alaska Marine Pilots' Association
Representative(s) Weyhrauch, Kerttula
Senator(s) Elton, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, French, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

Honoring – Henry Aristide "Red" Boucher
Representative(s) Stoltze, Foster
Senator(s) Huggins, Olson, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Elton, French, Green, Guess, Hoffman, Kookesh, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

Honoring – Chugiak High School Wrestling: A Proud Tradition
Representative(s) Stoltze, Dahlstrom, Kott
Senator(s) Huggins, Dyson, Ben Stevens, Bunde, Cowdery, Davis, Ellis, Elton, Green, Guess, Hoffman, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

Honoring – The Wainwright Search and Rescue Heroes

Representative(s) Joule

Senator(s) Olson, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Elton, Green, Guess, Hoffman, Huggins, Kookesh, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

In Memoriam – Barbara T. Walker

Representative(s) Weyhrauch, Kerttula

Senator(s) Elton, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

In Memoriam – Marceline “Marcy” C. White

Representative(s) Harris

Senator(s) Therriault, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Elton, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Wagoner, Wilken

Senator Gary Stevens moved and asked unanimous consent that the citations be adopted. Without objection, the citations were adopted and referred to the Secretary for transmittal.

Unfinished Business

Senators Therriault, French moved and asked unanimous consent to be excused from a call of the Senate to plane time on January 23. Without objection, Senators Therriault, French were excused.

Senator Kookesh moved and asked unanimous consent to be excused from a call of the Senate to morning plane time on January 23. Without objection, Senator Kookesh was excused.

Senator Gary Stevens moved and asked unanimous consent that President Stevens be excused from a call of the Senate to morning plane time on January 23. Without objection, Senator Ben Stevens was excused.

Announcements

Announcements are at the end of the journal.

Adjournment

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., January 23, 2006. Without objection, the Senate adjourned at 1:09 p.m.

Kirsten Waid
Secretary of the Senate

January 2006

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

+ indicates teleconference

= indicates bill previously heard/scheduled

COMMUNITY & REGIONAL AFFAIRS

Jan 20	Friday No Meeting Scheduled	Beltz 211	1:30 PM
Jan 23	Monday No Meeting Scheduled	Beltz 211	1:30 PM
Jan 25 +	Wednesday Overview: Local Boundary Commission - Dan Bockhorst	Beltz 211	1:30 PM
Jan 27	Friday No Meeting Scheduled	Beltz 211	1:30 PM

FINANCE

Jan 19 =	Thursday SB 54 PROTECTIVE ORDERS FOR SEXUAL ASSAULT HB 283 AK HOUSING FINANCE CORP BOARD COMP. Bills Previously Heard/Scheduled	Senate Finance 532	9:00 AM
Jan 20	Friday No Meeting Scheduled	Senate Finance 532	9:00 AM
Jan 23	Monday No Meeting Scheduled	Senate Finance 532	9:00 AM
Jan 24	Tuesday Bills Previously Heard/Scheduled	Senate Finance 532	9:00 AM

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FINANCE (continued)

Jan 25 Wednesday Senate Finance 532 9:00 AM
Bills Previously Heard/Scheduled

Jan 26 Thursday Senate Finance 532 9:00 AM
= SB 171 NPR-A COMMUNITY GRANT PROGRAM
SB 236 AK HOUSING FINANCE CORP DIVIDEND
SB 243 TOBACCO REV. FOR UNIV. & CORR. FACILITIES

Jan 27 Friday Senate Finance 532 9:00 AM
Bills Previously Heard/Scheduled

HEALTH, EDUCATION & SOCIAL SERVICES

Jan 20 Friday Butrovich 205 1:30 PM
No Meeting Scheduled

Jan 23 Monday Butrovich 205 1:30 PM
No Meeting Scheduled

Jan 25 Wednesday Butrovich 205 1:30 PM
+= SB 177 PRACTICE OF PSYCHOLOGY
+ Bills Previously Heard/Scheduled

Jan 27 Friday Butrovich 205 1:30 PM
+ Bills Previously Heard/Scheduled, if
Necessary

JUDICIARY

Jan 19 Thursday Butrovich 205 8:30 AM
+ SB 200 USE OF FORCE TO PROTECT SELF/HOME
+ SB 218 CRIMINAL SENTENCING AND POLYGRAPHS
+ SB 10 PARENTAL LIABILITY FOR CHILD'S DAMAGE

Jan 24 Tuesday Butrovich 205 8:30 AM
+= SB 200 USE OF FORCE TO PROTECT SELF/HOME
+= SB 218 CRIMINAL SENTENCING AND POLYGRAPHS
+= SB 10 PARENTAL LIABILITY FOR CHILD'S DAMAGE

JUDICIARY
(continued)

Jan 25 Wednesday Butrovich 205 8:30 AM
 + HB 101 SEX TOURISM
 + HB 148 TRAFFICKING OF PERSONS
 + HJR 9 URGE CONGRESS HONOR EXXON VALDEZ JUDGMENT
 + Bills Previously Heard/Scheduled

Jan 26 Thursday Butrovich 205 8:30 AM
 + Confirmations:
 James J. Fayette, Commission on
 Judicial Conduct
 William S.L. Walters, Alaska Public
 Offices Commission
 Regina C. Chennault, Violent Crimes
 Compensation Board
 + Bills Previously Heard/Scheduled

LABOR & COMMERCE

Jan 19 Thursday Beltz 211 1:45 PM
 -- Time Change --
 + SB 136 UNEMPLOYMENT COMPENSATION BENEFITS
 + HB 108 WATER & SEWER UTILITIES OF POLIT. SUBDIV.
 <Bill Hearing Postponed>

Jan 24 Tuesday Beltz 211 1:30 PM
 + SB 222 PROTECTION OF PERSONAL INFORMATION
 + SB 207 AK AEROSPACE DEVEL. CORP BD MEMBERSHIP
 Bills Previously Heard/Scheduled

Jan 26 Thursday Beltz 211 1:30 PM
 Bills Previously Heard/Scheduled

RESOURCES

Jan 20 Friday Butrovich 205 3:30 PM
 No Meeting Scheduled

Jan 23 Monday Butrovich 205 3:30 PM
 + HB 107 HUNTING/FISHING INTERFERENCE
 + HB 269 HAZARDOUS SUBSTANCE RELEASE LIABILITY

RESOURCES
(continued)

Jan 25 **Wednesday** **Butrovich 205** **3:30 PM**
 + HB 251 COMMERCIAL FISHING MULTIPLE PERMIT HOLDER
 + HJR 17 FEDERAL LANDS RECREATION ENHANCEMENT ACT

Jan 27 **Friday** **Butrovich 205** **3:30 PM**
 No Meeting Scheduled

STATE AFFAIRS

Jan 19 **Thursday** **Beltz 211** **3:30 PM**
 No Meeting Scheduled

Jan 24 **Tuesday** **Beltz 211** **3:30 PM**
 HB 83 SEISMIC HAZARDS SAFETY COMMISSION

Jan 26 **Thursday** **Beltz 211** **3:30 PM**
 + SB 214 APPROP FOR ENERGY DIVIDEND & ASSISTANCE
 + SB 215 ENERGY DIVIDEND: INCREASE 2005 PFD

TRANSPORTATION

Jan 19 **Thursday** **Butrovich 205** **1:30 PM**
 No Meeting Scheduled

Jan 24 **Tuesday** **Butrovich 205** **1:30 PM**
 No Meeting Scheduled

Jan 26 **Thursday** **Butrovich 205** **1:30 PM**
 No Meeting Scheduled

JOINT COMMITTEES

LEGISLATIVE COUNCIL

Jan 26 **Thursday** **Senate Finance 532** **5:00 PM**
 Legislative Council Meeting

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VICTIMS' ADVOCATE SELECTION COMMITTEE

Jan 24 **Tuesday** **Butrovich 205** **1:30 PM**
Victims' Advocate Selection Committee Meeting
-- No Public Testimony --

OTHER MEETINGS

JOINT SESSION

Feb 08 **Wednesday** **House Chamber** **11:00 AM**
Chief Justice Bryner's
Annual State of the Judiciary Message